

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1265 of 2025
In
Letters Patent Appeal No.490 of 2024

Neha Agrawal D/o Arun Kumar Khemka, W/o Sumit Agrawal residing at 32, Baranashi Ghosh Street, P.S.- Girish Park, Post- Burrabazar District- Kolkata-700007.

... .. Petitioner/s

Versus

Sumit Agrawal S/o Late Ashok Agrawal, R/o 202-203 Amba Residency, East Boring Canal Road, P.S.- Buddha Colony, Patna-800001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Neha Agrawal, In Person
For the Opposite Party/s : Mr. Ranjeet Kumar, Advocate
Mr. Kanishk Kaustubh, Advocate
Ms. Lakshmi Kumari, Advocate
Mr. Rajnish Prakash, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 31-07-2025

Heard Ms. Neha Agrawal, the petitioner in person and Mr. Ranjeet Kumar, learned Advocate for the sole respondent.

2. The petitioner has filed the instant application under section 151 of the Code of Civil Procedure praying for modification of paragraph nos. 17(ii) and (iv) of the judgment dated 29.11.2024, passed in LPA no.490 of 2024.

3. Paragraph no.1 of the application is reproduced herein below for ready reference:-

“That the instant application has been filed before this Hon’ble Court with a



prayer to Modify the paragraphs 17(ii) & (iv) of the Order dated 29.11.2014 (sic) and extend the time period to cross examine the PW 1 to 3 and file the list of witness till August-September, 2025.”

4. The facts in brief are that the petitioner and respondent were married on 7.11.2014 under the Special Marriage Act, 1954. Soon after marriage, differences having arisen between the parties led to filing of criminal cases and the respondent on 30.9.2016 filed a divorce case in the Court of the learned Principal Judge, Family Court, Patna, which was registered as Matrimonial Case no.1044 of 2016, praying that the marriage tie between the parties be annulled by a decree of divorce and for other reliefs. The petitioner herein appeared in the matrimonial case and filed her written statement.

5. The respondent being aggrieved with the delay in disposal of the matrimonial case moved this Court under Article 227 of the Constitution of India in Civil Miscellaneous Jurisdiction no.269 of 2021, for a direction to the learned Additional Principal Judge, Family Court, Patna to expedite and dispose of Matrimonial Case no.1044 of 2016.

6. After hearing the parties, this Court by order dated 3.12.2021 was pleased to dispose of Civil Miscellaneous Jurisdiction no.269 of 2021, directing the learned Principal



Judge, Family Court, Patna to take every endeavor to dispose of the divorce case as expeditiously as possible subject to any legal or procedural impediment.

7. Contending that the matrimonial case was being adjourned on one ground or the other, the respondent filed MJC no.1804 of 2023 in this Court under Article 227 of the Constitution of India praying for modification of the order dated 3.12.2021. It was stated therein that in the divorce case of the year 2016, on filing of the written statement and the reconciliation having failed, three witnesses have been examined on behalf of the respondent herein on 4.5.2019, 28.5.2019 and 15.12.2021, however, the suit was not progressing. As such, it was prayed that the order dated 3.12.2021 (passed in Civil Miscellaneous Jurisdiction no.269 of 2021) be modified and time be fixed for disposal of Matrimonial Case no.1044 of 2016 within a period of 3-4 months or as deemed fit/reasonable by the Court.

8. In MJC no.1804 of 2023, by order dated 1.3.2024, taking note of the fact that the divorce case was still pending in spite of the directions of this Court vide its order dated 3.12.2021 in Civil Miscellaneous Jurisdiction no.269 of 2021, the evidence of plaintiff had already concluded and the suit was



running at the stage of the evidence of the defendant, this Court directed the learned Family Court to provide opportunity of three dates to the defendant to conclude their evidence and to conclude the divorce suit within a period of 3 months. Further, by order dated 1.5.2024, taking note of submission of the petitioner herein, the Court further directed the learned Family Court to ensure that the remaining dues of the *ad interim* maintenance is paid and the application under section 340 of the Cr.P.C. is also decided expeditiously. With these directions as also reiterating to ensure compliance of the order dated 1.3.2024, MJC no.1804 of 2023 was disposed of.

9. It may be mentioned here that in the meantime, Civil Miscellaneous Jurisdiction no.451 of 2019 had been preferred by the petitioner in this Court challenging the order dated 26.5.2018 of the learned Family Court passed in Matrimonial Case no.1044 of 2016, whereby interim maintenance of Rs.50,000/- per month had been fixed besides one time litigation cost of Rs.50,000/-. The petitioner prayed for a direction to the respondent to pay a sum of Rs.3,50,000/- per month as interim maintenance and Rs.1,50,000/- as litigation cost.

10. The petitioner had also filed MJC no.3439 of 2024



for initiating contempt proceedings against the respondent for not producing his income tax returns inspite of the directions of the Court.

11. All the three cases i.e. LPA no.490 of 2024, Civil Miscellaneous Jurisdiction no.451 of 2019 and MJC no.3439 of 2024 were heard analogous and while LPA no.490 of 2024 was disposed of, the other two cases Civil Miscellaneous Jurisdiction no.451 of 2019 and MJC no.3439 of 2024 were directed to be posted before the learned Single Judge having roster. Relevant portion of the order dated 29.11.2024 is reproduced herein below for ready reference:-

“17. In the context of the above facts noticed, we are of the opinion that the appeal can be disposed of with the following directions:

(i) As undertaken by the husband, the Income Tax returns from the financial year 2015-16 shall be produced in C. Misc. No. 451 of 2019, where he is the respondent, within a period of ten days from today. The learned Single Judge would also be entitled to look into whether the interim maintenance as already ordered has been paid up to date and issue directions to that end.

(ii) Insofar as the divorce case is concerned, the husband's undertaking that his witnesses will be produced is recorded. The husband shall file a schedule of dates for



appearance of the witnesses, on any date, commencing from the first week of January, 2025, with P.Ws. No. 1, 2 and 3 appearing within ten days of each. The said schedule shall be filed before the Additional Family Court on or before 16.12.2024, on which date, the divorce case shall be posted peremptorily, by the Additional Family Court. Both the parties or their Counsel shall be present before Court. Before the learned Family Court, the respondent-wife shall also be heard insofar as her convenience with reference to the dates on which P.Ws. No. 1 to 3 are to be cross-examined and suitable adjustments shall be made; but however, ensuring that all the three witnesses are cross-examined on or before February, 2025. The application before the learned Family Court for recall of the witnesses will stand disposed of as per our directions hereinabove.

(iii) Insofar as the application under Section 340 of the Cr.P.C., the Additional Family Court, Patna, shall ensure that appropriate proceedings are taken, after hearing both the parties, if necessary, transmitting the case to the Jurisdictional Magistrate on satisfaction of the Additional Family Court.

(iv) After the cross-examination of P.Ws. No. 1, 2 and 3, the wife, opposite party in the divorce case shall also produce a schedule of witnesses to be examined, before



the Additional Family Court, Patna, on any date on the first week of February, 2025 as fixed by the Additional Family Court. After hearing both the parties, and ascertaining the convenience of the husband the Additional Family Court shall fix a schedule of examination of witnesses of the opposite party, which shall be scrupulously complied with by both the parties.

18. With the above observations and directions, we dispose of the present appeal and we make it clear that once the application under Section 340 of the Cr.P.C., is disposed off and if a criminal case is directed to be registered by the Additional Family Court, then necessarily, the divorce case shall be disposed of in accordance with our directions hereinabove, without waiting for conclusion of the criminal case.

19. The contempt case, as of now, stands closed. If the Income Tax returns are not filed in accordance with the undertaking made herein, it shall stand restored before us, on an application filed by the appellant-wife.

20. We place on record our appreciation for the assistance rendered by the Amicus Curiae.

21. LPA No. 490 of 2024 is disposed off. CWJC No.451 of 2019 and MJC No. 3439 of 2024 are directed to be posted before the learned Single Judge having roster.”

12. It is paragraph nos. 17(ii) and (iv) of the order



dated 29.11.2024, of which modification is sought by the petitioner in the instant application.

13. It is submitted by the petitioner that having been thrown out by the respondent while she was living with her aged and ailing parents in Kolkata, the respondent besides filing criminal cases with bogus allegations against her as also her parents, has filed the divorce case concealing material facts and making false representations therein. It was submitted that the respondent is not cooperating in the criminal case filed by the petitioner and has been praying for expeditious disposal of the false divorce case. She has also filed an application under Order XII Rule 6 of the Code of Civil Procedure in the divorce case which is still pending. As a result of false statements, a proceeding under section 340 of the Cr.P.C. has also been initiated against him. It was further submitted by the petitioner appearing in person that PW-1 and PW-2, who have made incorrect statements, were discharged without cross-examination. Subsequent to the directions of this Court, the petitioner appeared in the learned Family Court and cross-examined PW-1 partly on 10.1.2025, however the cross-examination could not be concluded due to paucity of time. The petitioner having 'fallen extremely unwell' prayed for cross-



examination of PW-1 *via* video conferencing on 28.1.2025, not being aware that he had already been discharged. Though the next date was orally fixed for 30.1.2025, due to technical difficulties, PW-2 and PW-3 were also not cross-examined and evidence of plaintiff (respondent herein) was closed on 29.1.2025 itself instead of 30.1.2025. It was submitted by the petitioner in person that for the ends of justice, the order dated 29.11.2024 be modified and the time granted therein for cross-examination etc. be extended till August-September, 2025.

14. Mr. Ranjeet Kumar, learned counsel referring to the contents of the counter affidavit filed on behalf of the respondent submitted that the matrimonial case was filed by the plaintiff (respondent herein) in the year 2016, wherein the petitioner had filed her written statement in October, 2017. Two witnesses on behalf of the plaintiff were examined on 4.5.2019 and 28.5.2019. PW-2 was discharged only after six months wherein 14 dates were given to the petitioner to cross-examine him. PW-3 was examined on 15.12.2021 and once again, the petitioner not having cross-examined him, inspite of 15 months having passed wherein the case was listed on 17 dates, he was discharged on 13.3.2023. Learned counsel submitted that repeated directions have been given by this Court in different



cases to conclude the divorce case, however the petitioner did not permit the case to proceed. It was finally by order dated 29.11.2024 passed in LPA no.490 of 2024 that specific directions were given to both the parties as also to the learned Court below, however the petitioner has still not permitted the case to conclude and instead has moved this Court for modification of the said order. Learned counsel submits that no case of modification has been made out, there is no merit in the instant application and the same be dismissed.

15. Heard the petitioner in person and learned counsel appearing for the sole respondent. Perused the material on record.

16. Having heard learned counsel for the parties and having perused the material on record, this Court finds that Matrimonial Case no.1044 of 2016 was filed by the respondent, wherein after filing of the written statement by the petitioner, three witnesses were examined on behalf of the plaintiff (respondent herein) on 4.5.2019, 28.5.2019 and 15.12.2021. The matrimonial case not progressing satisfactorily, the respondent filed Civil Miscellaneous Jurisdiction no.269 of 2021, wherein by order dated 3.12.2021, this Court directed the learned Family Court, Patna to expedite the disposal of the divorce case. The



relevant portion of the order dated 3.12.2021 is as follows :-

“On the above mentioned facts and circumstances, the learned Principal Judge, Family Court, Patna is directed to take every endeavor to dispose of the divorce case as expeditiously as possible, subject to any legal or procedural impediment.”

17. Subsequently, MJC no.1804 of 2023 was preferred by the respondent in this Court praying for modification of the order dated 3.12.2021 (passed in Civil Miscellaneous Jurisdiction no.269 of 2021) and praying that the deadline for disposal of the matrimonial case be fixed by this Court. This Court was pleased to pass order dated 1.3.2024 in MJC no.1804 of 2023, wherein it directed as follows:-

“It is directed that the divorce suit shall be concluded within a period of three months.”

18. The aforesaid MJC no.1804 of 2023 was disposed of on 1.5.2024, wherein this Court once again directed that the learned Court below shall ensure the compliance of the order dated 1.3.2024, quoted herein above.

19. LPA no.490 of 2024 having been preferred by the petitioner against the order dated 1.5.2024 passed in MJC no.1804 of 2023, this Court was pleased to dispose of the



present appeal by order dated 29.11.2024 giving directions in paragraph no.17, as stated/quoted herein above. The petitioner in this application has prayed for modification of paragraph nos. 17(ii) and (iv).

20. In paragraph nos. 17(ii) and (iv), this Court had directed that the husband (respondent herein) shall file a schedule of dates for appearance of the witnesses to be cross-examined by the wife (petitioner herein). The cross-examination by the wife was to be completed on or before February, 2025, whereafter, the wife was directed to produce a schedule of witnesses to be examined on any date in the first week of February, 2025 and the examination and cross-examination of the witnesses had to be completed by both the parties as fixed by the learned Family Court.

21. On perusal of the contents of the uncontroverted counter affidavit of the respondent and the order-sheet of the learned Court below brought on record therein it transpires that the learned Additional Principal Judge finalised the dates of cross-examination of the three witnesses of the plaintiff on 10.1.2025, 20.1.2025 and 29.1.2025. PW-1 was cross-examined by the wife/petitioner/defendant from 11 a.m. to 4:30 p.m., but the cross-examination did not end. However, thereafter, she did



not appear to cross-examine the witness on 13.1.2025, 15.1.2025, 18.1.2025 and also on 20.1.2025, on which date PW-1 was discharged. Similarly, the petitioner did not appear to cross-examine PW-2 on 23.1.2025 and 28.1.2025 nor did she appear to cross-examine PW-3 on 29.1.2025 and both PW-2 and PW-3 were also discharged. The Court is further informed that the arguments have also concluded.

22. In view of the facts and circumstances of the case, dealt with in much detail herein above, the Court is of the opinion that there is no ambiguity in the order dated 29.11.2024, nor in paragraph nos.17(ii) and (iv) thereof, modification of which is sought in the instant application. It is also not the case of the petitioner that there is any error in the order. In the opinion of the Court, what the petitioner seeks is rehearing of the original application and praying for further extension of the time granted for cross-examination of the witnesses of the plaintiff.

23. At the cost of repetition, it would be relevant to keep in mind that this Court in various applications has been giving directions for expediting the disposal of the matrimonial case. Orders dated 3.12.2021 passed in Civil Miscellaneous Jurisdiction no. 269 of 2021, dated 1.3.2024 passed in MJC no.



1804 of 2023 and dated 29.11.2024 passed in LPA no.490 of 2024, relevant portions of which have been quoted herein above, may be referred to.

24. The petitioner has not made out a case for modification of paragraph nos. 17(ii) and (iv) of the order dated 29.11.2024 passed in LPA no.490 of 2024.

25. The Court finds no merit in the instant application and the same is dismissed.

(Vipul M. Pancholi, CJ)

(Partha Sarthy, J)

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CAV DATE	N/A
Uploading Date	01.08.2025
Transmission Date	

